

REMARKS/ARGUMENTS

Favorable consideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1, 3, 4 and 8-16 are presently pending in this application, Claims 2 and 5-7 having been canceled, Claims 1 and 8 having been amended by the present amendment.

Claims 1-16 were rejected under 35 U.S.C. §103(a) as being unpatentable over Higashiyama (WO 02/068892) in view of Tooyama et al (US 2001/0040027) and JP 8-10764 (“JP ‘764”).

Claims 1 and 8 have been amended herein. These claim amendments are believed to find clear support in the specification, claims and drawings as originally filed, and no new matter is believed to be added thereby. If, however, the Examiner disagrees, the Examiner is invited to telephone the undersigned who will be happy to work in a joint effort to derive mutually satisfactory claim language.

Before addressing the rejection based on the cited references, a brief review of Claim 1 as currently amended is believed to be helpful. Claim 1 is directed to an evaporator and recites, *inter alia*, “a heat exchange core having a plurality of flat refrigerant passing bodies ...; and a refrigerant inlet header and a refrigerant outlet header arranged on an upper side of the heat exchange core side by side in the front-rear direction and each having at least one end positioned at a widthwise outer end of the heat exchange core ..., the outlet header having ... a second fin being disposed outside the refrigerant passing body positioned at said widthwise outer end of the heat exchange core, a side plate being disposed externally of the second fin, the evaporator being so configured that a refrigerant flows into the inlet header through the inlet ..., wherein the second fin and the side plate have respective upper ends so positioned as to permit an upper portion outer surface of the core-end refrigerant passing body to be exposed, a refrigerant inflow member and a refrigerant outflow member being

arranged on the core-end refrigerant passing body at an external portion thereof above the second fin and the side plate, the inflow member being connected to the inlet of the inlet header, the outflow member being connected to the outlet of the outlet header, wherein the inflow member and the outflow member each comprise a tube which is rectangular in cross section and is open at one end and closed at the other end and has a pipe joint opening at the open end, and the inflow member and the outflow member are connected, each at a peripheral wall portion thereof toward the closed end, to the inlet of the inlet header and the outlet of the outlet header respectively, wherein one of the inflow member and the outflow member which is positioned in front of the other extends forward straight from a closed end thereof, and the other member is curved downwardly forward from a closed end thereof and has an outer end extending straight forward, wherein the side plate is provided at the upper end thereof with a portion bent toward the refrigerant passing body, and the inflow member and the outflow member are rectangular in cross section and have outer side faces positioned within an upward extension of the plane of an outer side face of the side plate or inwardly of the extension, a covering member being provided for closing a space between the upper-end bent portion of the side plate and a lower end of one of the inflow member and the outflow member which is positioned in the rear of the other when the space is seen from the front.”

By providing such a second fin and side plate, when the evaporator is housed in a case, air flow in the space between the evaporator and the case and above the upper ends of the second fin and the side plate is blocked by the refrigerant inflow member and the refrigerant outflow member, and the behavior of the covering member, thereby remarkably reducing the amount of air that does not pass through the heat exchange core and precluding the impairment of cooling efficiency. Moreover, there is no need to caulk the above-mentioned space between the evaporator and the case with a heat insulating material, eliminating needs for such a procedure, material and related costs.

It is respectfully submitted that Higashiyama, Tooyama et al and JP '764 are not believed to teach or suggest "one of the inflow member and the outflow member which is positioned in front of the other extends forward straight from a closed end thereof, and the other member is curved downwardly forward from a closed end thereof and has an outer end extending straight forward, wherein the side plate is provided at the upper end thereof with a portion bent toward the refrigerant passing body, and the inflow member and the outflow member are rectangular in cross section and have outer side faces positioned within an upward extension of the plane of an outer side face of the side plate or inwardly of the extension, a covering member being provided for closing a space between the upper-end bent portion of the side plate and a lower end of one of the inflow member and the outflow member which is positioned in the rear of the other when the space is seen from the front" as recited in amended Claim 1. As such, the aforementioned advantages attributable to these structures are not attainable from the devices described in Higashiyama, Tooyama et al and JP '764.

Therefore, the structure recited in amended Claim 1 is believed to be clearly distinguishable from Higashiyama, Tooyama et al and JP '764, and because none of Higashiyama, Tooyama et al and JP '764 discloses the second fin and/or the side plate as recited in amended Claim 1, their teachings even in combination are not believed to render the structure recited in Claim 1 obvious.

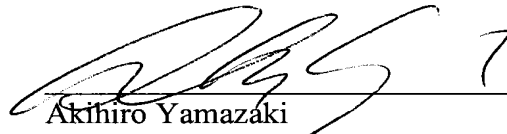
For the foregoing reasons, Claim 1 is believed to be allowable. Furthermore, since Claims 3, 4 and 8-16 depend directly or indirectly from Claim 1, substantially the same arguments set forth above also apply to these dependent claims. Hence, Claims 3, 4 and 8-16 are believed to be allowable as well.

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In view of the amendments and discussions presented above, Applicant respectfully submits that the present application is in condition for allowance, and an early action favorable to that effect is earnestly solicited.

Respectfully submitted,

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